

EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
Sherman Division

ED BUTOWSKY, in his Individual
And Professional Capacities

Plaintiff,

v.

DAVID FOLKENFLIK et al

Defendants.

Case No. 4:18-cv-00442-ALM

PLAINTIFF’S RULE 26(a)(1) DISCLOSURES

Plaintiff, Ed Butowsky (“Plaintiff”), by counsel, pursuant to Rule 26(a)(1) Fed. R. Civ. Pro. (“FRCP”), provides the following Disclosures:

1. Individuals Likely to Have Discoverable Information. The following persons are likely to have discoverable information that the Plaintiff may use to support the facts and allegations in his Complaint [*ECF Document. 1*]:

a. Ed Butowsky, c/o Steven S. Biss, Esquire. Plaintiff has knowledge and information relevant to all facts, allegations and claims stated in his Complaint, including, without limitation, Defendants’ publication of false and defamatory statements, the republication of those statements, Defendants’ actual malice, and the actual damages, loss of income and injury to Plaintiff’s business (investment management and advice), insult, pain, embarrassment, humiliation, mental suffering, and injury to his reputation caused by the Defendants’ defamation, business disparagement and conspiracy.

b. Dani Butowsky, c/o Steven S. Biss, Esquire. Dani has knowledge of the impact of Defendants' statements on her husband.

c. Lauren Butowsky, c/o Steven S. Biss, Esquire. Lauren has knowledge of the impact of Defendants' statements on her father.

d. Chapwood Capital Investment Management, c/o Steven S. Biss, Esquire. Chapwood has knowledge and information relating to Plaintiff's loss of business and income, including information about Chapwood's assets under management, loss of accounts and revenues since August 1, 2017.

e. Sally Davis, sallyhi-d@comcast.net. Ms. Davis has knowledge of Defendants' statements and her decision to remove Chapwood as her investment advisor because of Defendants' news articles.

f. Joel and Mary Rich. Joel and Mary Rich have knowledge of their son, Seth Rich's, employment with the DNC, his communications with WikiLeaks, his murder, and the investigation of his murder.

g. Aaron Rich. Aaron Rich has knowledge of his brother's communications with WikiLeaks, the payment by WikiLeaks through a dummy Ebay account, Seth Rich's murder, the investigation of Seth Rich's murder, and Aaron Rich's obstruction of Rod Wheeler's murder investigation. [See, e.g., <https://bigleaguepolitics.com/brother-seth-rich-works-government-contractor-provides-cyber-defense/>; <https://bigleaguepolitics.com/audio-rod-wheeler-explains-fox-news-fiasco-claims-brother-blocked-wikileaks-inquiries/>].

h. Julian Assange, 3b, 3 Hans Cres, Knightsbridge, London SW1X 0LS, UK (Embassy of Ecuador, London, England). Mr. Assange has knowledge of the production of emails by Seth Rich to WikiLeaks in or about June 2016 [*See* <https://www.youtube.com/watch?v=Kp7FkLBRpKg>] and that Russia was absolutely not involved. [<https://www.youtube.com/watch?v=CuRJDKEVxHY> (At 1:34)].

i. WikiLeaks. WikiLeaks has knowledge of the production of emails by Seth Rich to WikiLeaks and the release of those emails on July 22, 2016 (Part I of the Hillary Leaks Series) [<https://wikileaks.org/dnc-emails/>], and the \$20,000 reward offered by WikiLeaks for information leading to the capture and conviction of Seth Rich's killer. [<https://www.telegraph.co.uk/news/2016/08/10/wikileaks-offers-20000-reward-over-murder-of-democrat-staffer-se/>].

j. Malia Zimmerman, <https://www.foxnews.com/person/z/malia-zimmerman>. Ms. Zimmerman has knowledge relating to the Fox News story she wrote concerning Seth Rich and WikiLeaks, her communications with Rod Wheeler, and the falsity of statements published by Folkenflik and NPR.

k. Fox News. Fox News has knowledge of publication of Zimmerman's story [*"Seth Rich, slain DNC staffer, had contact with WikiLeaks, say multiple sources"*] and its retraction of Zimmerman's story about the murder of Seth Rich, including the "high degree of editorial scrutiny", "appropriate review", and "standards" mentioned in the retraction. [<https://www.foxnews.com/politics/statement-on-coverage-of-seth-rich-murder-investigation>].

l. Sean Hannity, <https://www.foxnews.com/shows/hannity>. Mr. Hannity has knowledge of his communications with Rod Wheeler concerning Seth Rich and WikiLeaks and the falsity of statements published by Folkenflik and NPR. [<https://www.youtube.com/watch?v=CuRJDKEVxHY>].

m. Lou Dobbs, <https://www.foxbusiness.com/person/d/lou-dobbs>. Mr. Dobbs Hannity has knowledge of his communications with Rod Wheeler concerning Seth Rich and WikiLeaks and the falsity of statements published by Folkenflik and NPR. <https://www.youtube.com/watch?v=2tqckO7bBjk>].

n. Debunking Rod Wheeler, <http://debunkingrodwheelersclaims.net/>; <https://twitter.com/debunkrwheeler?lang=en>. The publisher of the website has knowledge of the webpages and information published on the website and on Twitter, and the dates of the publications and republications.

o. WH Press Secretary Sean Spicer, <https://seanspicer.com/about/>; https://twitter.com/seanspicer?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor. Mr. Spicer has knowledge of the falsity of Folkenflik, NPR and Wigdor's statements that Plaintiff colluded with the President.

p. Stephen K. Bannon, <https://www.biography.com/people/steve-bannon-022417>. Mr. Bannon has knowledge of the falsity of Wigdor and Wheeler's statements.

q. David B. Harrison, Esquire, <https://www.spiroharrison.com/david-b-harrison.html>. Mr. Harrison has knowledge of the contents of a Rule 11 letter dated June 27, 2017 letter delivered to Wigdor.

r. Douglas H. Wigdor and Wigdor, LLP, 85 5th Avenue, 5th Floor, New York, NY 10003, 212-257-6800, <https://www.wigdorlaw.com/portfolio/douglas-h-wigdor/>. Douglas H. Wigdor and his partners, Jeanne M. Christensen [<https://www.wigdorlaw.com/portfolio/jeanne-m-christensen/>] and Michael J. Willemine [<https://www.wigdorlaw.com/portfolio/michael-j-willemine/>] have knowledge and information relevant to (a) Wigdor's habit, routine practice, common scheme and plan to use the press as "firecrackers" to inflame public opinion and extort settlements from high-profile defendants, (b) the creation of the false narrative about Plaintiff, Fox News and President Trump, including the recruitment of Wheeler, (c) Wigdor's conspiracy with Folkenflik to publish the scandalous story, (d) the publication of false and defamatory statements about Plaintiff and the republication of those statements, including the following defamation:



<https://www.npr.org/2017/08/01/540783715/lawsuit-alleges-fox-news-and-trump-supporter-created-fake-news-story>;

- CUOMO: ... This is not the court of public opinion. In a court of law you only know what you show and you're going to have to demonstrate that Sean Spicer, if you're going to include the White House in a concocted story scheme, then you're going to have to show that they knew something about it and that they wanted to advance it and there is some merit to this suggestion the President of the United States had seen this article and wanted it advanced, do you have any proof to do any of that?

CHRISTENSEN: We just filed a lawsuit as you know on the first [of August] and ... the defendants are entitled to answer and then we will proceed to discovery and we will obtain that information that we believe is out there and will prove Rod's story."

[<https://www.youtube.com/watch?v=d5L-NF6cDOo>];

- "The decision that Ofcom originally made was before we filed a lawsuit on behalf of Rod Wheeler. It involved a very complicated set of facts, but the bottom line was that Fox News was creating fake news, and what you really have is you have the Murdoch empire from top to bottom, this isn't just Fox News, this is the New York Post, this is everything the Murdochs touch."

[<https://www.youtube.com/watch?v=EQBRqKuLZt4>];

- "We are confident that our client will ultimately be vindicated in a public court of law that will expose how Fox and the individually named defendants created fake news in an attempt at diverting attention away from the Russian hacking scandal."

[<http://money.cnn.com/2017/09/19/media/fox-news-court-dismiss-lawsuit-seth-rich/index.html>];

- "CNBC ANCHOR: I'm curious why you would be called to testify in this particular case. This is about them being able to buy another company and whether or not they are fit to buy that company. You're suing them. Of course, you are going to say they are not fit. You have an axe to grind here.

WIGDOR: That's a good question. I'm glad you asked it actually because what they are trying to determine is whether Fox should purchase Sky, the Foxification of Sky. Whether they meet broadcasting standards, whether or not they are fit and proper. Believe it or not I have not told the competitions and market authority what they should or should not do. I have not made any recommendations, but I feel obligated that I have a lot of information. I have 22 clients and I believe in transparency ... I'm giving them information. They can do with that what they feel appropriate.

...

CNBC ANCHOR: I'm coming off cynical here, but another part of me thinks, okay, you're doing this to gain leverage with the company because you're in negotiations with them. You can use this as leverage with them, to get a better settlement, maybe you don't go [to England] the second time if you get decent settlements for your 22 clients.

WIGDOR: I'm just trying to represent my clients zealously under the under the auspices of the law. I've never tried to use this in my negotiations with them ... I represent Rod Wheeler in the Seth Rich murder fake news case. I mean that goes to the very heart of broadcasting standards, and whether the British people want the Foxification of Sky is a serious issue for them to consider."

[<https://www.youtube.com/watch?v=KgmfpGdgaTg>]. Wigdor and his partners also have knowledge of (e) Wigdor's actual malice towards Plaintiff, Fox News and the President, (f) Wigdor's efforts to extort Fox News, and (g) the injuries inflicted upon Plaintiff by Wigdor's false and defamatory statements.

s. Rod Wheeler, <https://www.foxnews.com/person/w/rod-wheeler>; <https://twitter.com/rodwheeler?lang=en>; Mr. Wheeler has knowledge of all matters relating to his investigation of the murder of Seth Rich, including, without limitation, his interviews of Joel and Mary Rich, his interviews of Aaron Rich [<https://www.youtube.com/watch?v=2p8at6PD4L8>], Detective Joseph Dellacamera and others, the publication of information by Wheeler on his YouTube channel [https://www.youtube.com/watch?v=D_nsLuFyb60], Wheeler's text message and email communications with Plaintiff and Zimmerman, Wheeler's statements to Marina Marraco, Sean Hannity and Lou Dobbs, statements made by Wheeler to FetchYourNews [<https://fannin.fetchyournews.com/2017/05/22/detective-rod-wheeler-releases-statement-concerning-the-death-of-dnc-staffer-seth-rich/>], to Crowdsorce The Truth [<https://www.youtube.com/watch?v=yDI0AFOHuNI>], and to others about Seth Rich and

WikLeaks and the Fox News story, statements Wheeler made in audio recordings that were published by, *inter alia*, BigLeaguePolitics and on Debunking Rod Wheeler [<https://www.youtube.com/channel/UCBIpN1cdt9MDoBFyPlwBtdA>], communications with Wigdor, the conspiracy between Wigdor and Folkenflik, the publication and republication of false and defamatory statements about Plaintiff, and Wigdor's actual malice.

t. Detective Joseph Dellacamera, (202) 438-8301. Detective Dellacamera has knowledge of his investigation of the murder of Seth Rich and his (Dellacamera's) communications with Rod Wheeler.

u. David Folkenflik and NPR, c/o Laura Prather, Esquire. Folkenflik and NPR have knowledge and information relevant to all facts, allegations and claims stated in Plaintiff's Complaint, including, without limitation, Folkenflik's conspiracy with Wigdor to publish false and defamatory statements, the publication and republication of Folkenflik's articles, and the damage caused to Plaintiff by Folkenflik and NPR's defamation. NPR also has knowledge of its audience, reach and the breadth of the publication and republications at issue in this case, both online through NPR.org and via NPR's various Twitter properties, @npr and @nprpolitics.

v. Chapin, Cook and Gogoi, c/o Laura Prather, Esquire:

<https://www.npr.org/people/153024115/edith-chapin>;

<https://www.npr.org/people/493659503/leslie-cook>;

<https://www.npr.org/people/605797421/pallavi-gogoi>.

Chapin, Cook and Gogoi have knowledge of all matters relating to the editing and publication of Folkenflik's articles about Plaintiff.

w. Seymour Hersh, <http://samadamsaward.ch/seymour-hersh/>. Hersh has knowledge of the FBI Report and the production of the documents by Seth Rich to WikiLeaks. [See, e.g., <https://www.youtube.com/watch?v=giuZdBAxVh0>].

x. Marina Marraco, <https://www.facebook.com/marinamarraco/>; https://twitter.com/MarinaMarraco?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor. Ms. Marraco has knowledge of statements made to her by Wheeler [<https://www.youtube.com/watch?v=x48PeHvTddc>] and Wheeler's back-peddling and recanting of his statements. [<http://www.fox5dc.com/news/local-news/private-investigator-there-is-evidence-seth-rich-contacted-wikileaks-prior-to-death>].

y. Blake Hounshell, <https://www.politico.com/staff/blake-hounshell>; https://twitter.com/blakehounshell?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor. Mr. Hounshell has knowledge of Wheeler's back-peddling and flip-flopping and recanting of his statements relating to the Seth Rich/WikiLeaks story. [<https://twitter.com/blakehounshell/status/892374480193978369>].

z. Claudia Koerner, BuzzFeed News, <http://claudiakoerner.com/>; <https://www.buzzfeednews.com/author/claudiakoerner>. Ms. Koerner has knowledge of Wheeler's back-peddling and flip-flopping and recanting of his statements relating to the Seth Rich/WikiLeaks story. [<https://www.buzzfeednews.com/article/claudiakoerner/the-private-detective-who-ignited-a-clinton-conspiracy#.xr04N76J3z>].

aa. Brian Stelter, <http://brianstelter.com/bio/>. Mr. Stelter has knowledge of the republication of Folkenflik's false and defamatory statements and his own misstatements about the Fox News story.

bb. Soledad O'Brien, <https://www.starfishmediagroup.com/soledad2/>;
https://twitter.com/soledadobrien?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor; <https://www.facebook.com/SoledadOBrien.OfficialPage/>. Ms. O'Brien has knowledge of the republication of Folkenflik and NPR's false and defamatory statements.

cc. Robert Hannigan, <https://www.belfercenter.org/person/robert-hannigan>. Mr. Hannigan may have knowledge of communications between Seth Rich and WikiLeaks and that the Hillary Leaks Part I emails were not hacked by Russians.

dd. Larry C. Johnson, Palisades Security Consulting, Former CIA Analyst, http://www.palisadesgroup.com/PalisadesSecurity/team_johnson.htm. Mr. Johnson may have knowledge of communications between Seth Rich and WikiLeaks and that the Hillary Leaks Part I emails were not hacked by Russians.

ee. William Edward Binney, Former NSA Analyst, <https://www.expressvpn.com/education/biography/william-binney>. Mr. Binney has knowledge of the VIPS Memo and that the Hillary Leaks Part I emails were not hacked by Russians.

ff. Edward Loomis, Jr. Mr. Loomis has knowledge of the VIPS Memo and that the Hillary Leaks Part I emails were not hacked by Russians.

gg. J. Kirk Wiebe, <https://twitter.com/kirkwiebe?lang=en>;
<https://www.whistleblower.org/bio-william-binney-and-j-kirk-wiebe>. Mr. Wiebe has knowledge of the VIPS Memo and that the Hillary Leaks Part I emails were not hacked by Russians.

hh. Terry Grafenstine, Former Inspector General of the United States House of Representatives, <https://www.ipthree.org/wp-content/uploads/Theresa-Terry-Grafenstine.pdf>. Ms. Grafenstine may have knowledge that the Hillary Leaks Part I emails were not hacked by Russians.

ii. The Forensicator, <https://theforensicator.wordpress.com/>. The Forensicator may have knowledge of communications between Seth Rich and WikiLeaks and that the Hillary Leaks Part I emails were not hacked by Russians.

jj. Cassandra Fairbanks, <https://www.linkedin.com/in/cassandra-fairbanks-504635b4/>; <https://muckrack.com/cassandra-fairbanks> https://twitter.com/CassandraRules?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor. Ms. Fairbanks may have knowledge of communications between Seth Rich and WikiLeaks and that the Hillary Leaks Part I emails were not hacked by Russians. Ms. Fairbanks also has knowledge of audio recordings of Rod Wheeler. [E.g., <https://bigleaguepolitics.com/audio-rod-wheeler-explains-fox-news-fiasco-claims-brother-blocked-wikileaks-inquiries/>].

kk. Media Matters for America, <https://www.mediamatters.org/about>. One or more officers, directors and/or agents of MMFA may have knowledge that the Hillary Leaks Part I emails were not hacked by Russians.

ll. FBI, CART Division, <https://www.fbi.gov/news/stories/piecing-together-digital-evidence>. Members of the FBI's CART Division may have knowledge of information on Seth Rich's computer at the time of his death and the publication of the FBI Report confirmed by Seymour Hersh.

mm. Ebay, <https://www.ebay.com/>. Members of Ebay’s accounting section may have knowledge of transactions between Seth Rich and/or Aaron Rich and WikiLeaks.

nn. Michael Mueller. Seth Rich’s neighbor, Mark Mueller, (“Mueller”), claims he heard sharp gun shots at 4:19 a.m. on July 10, 2016, and saw the police tending to Seth Rich in the street. At a vigil days after Rich’s murder, Mueller made the following public statements: “I was there when he got shot, and they walked him past me, so I could see him and identify him as I knew him in the neighborhood. And the police officer said, ‘he didn’t even know he was shot’”. [see, e.g., <https://twitter.com/joshdcaplan/status/874321849701806081/video/1>; <http://www.thegatewaypundit.com/2017/06/alleged-eyewitness-seth-rich-murder-didnt-even-know-shot-video/>].

oo. Bradley Bauman, <https://www.thepastorumgroup.com/team/>; <https://www.linkedin.com/in/bradbauman/>; <https://www.facebook.com/BradBauman>; <https://twitter.com/bradbaumn?lang=en>. Mr. Bauman is a DNC operative who has knowledge of the republication of Folkenflik’s false and defamatory statements, his own false and defamatory statements about the Plaintiff, and communications with the Riches and Aaron Rich. [<https://www.youtube.com/watch?v=dCLVaZINBGk>].

pp. Joseph A. Ingrisano, Esquire, Kutak Rock,, LLP, [<http://m.kutakrock.com/joseph-ingrisano/>]. Mr. Ingrisano has knowledge of the Riches threats of legal action against Wheeler made in a letter dated May 19, 2017. <https://www.nbcnews.com/politics/justice-department/slain-dnc-staffer-s-family-orders-blabbing-detective-cease-desist-n762211>].

qq. Debbie Wasserman Schultz, Donna Brazile and the DNC. Ms. Wasserman-Schultz, Ms. Brazile and the DNC have knowledge of Seth Rich's employment as a staffer, the fact that Seth Rich downloaded and produced documents to WikiLeaks, the fact that "Russians" did not hack the DNC servers, and the cover-up of the murder of Seth Rich.

2. Documents. Plaintiff will use the following documents to support his claims:

- a. All documents identified and referred to in the parties' pleadings;
- b. All documents produced in discovery by the parties;
- c. All documents produced by third-parties, including, without limitation, Wigdor, in response to Rule 45 Subpoenas and FOIA requests.

All documents will be produced electronically upon request in PDF or in native format.

3. Computation of Damages. Plaintiff computes his damages caused by Defendants' defamation, business disparagement and conspiracy as follows:

A. Loss or Injury to Business – Plaintiff has suffered a loss or injury to his business as an investment manager and advisor in the approximate amount of **\$35,000,000.00**, calculated by the decline in assets under management and loss of accounts at Chapwood and the loss of revenue from those accounts between August 2017 and the present.

B. Insult – including pain, embarrassment, humiliation, mental suffering, sleeplessness, stress, anxiety, shame, demoralization, impact upon his interpersonal, social and professional relationships, anger, fear, discomfort and inconvenience in the amount of **\$10,000,000.00**.

C. Injury to Reputation – in the amount of **\$10,000,000.00**.

D. Prejudgment Interest – interest on the principal sum awarded by the Jury from August 1, 2017 until the date Judgment is entered at the rate of five percent (5%) per year.

E. Punitive Damages – in the amount of **\$750,000.00**.

F. Costs – **\$400**.

In addition to loss of income and injury to his business as an investment manager and advisor, Defendants' publication and republication of false factual statements has caused Plaintiff to continuously suffer severe emotional distress, anxiety, embarrassment, humiliation, loss of self-esteem and confidence, sense of betrayal and deep disappointment, fear that the defaming remarks have reached colleagues, families, and other members of the public beyond those who are identified in the Complaint, fear that he has lost standing, credibility, and that he will be unable to feed his family, fear that he will never be able to clear his name, sleeplessness, headaches, and lack of concentration.

In determining the damages claimed by Plaintiff in this action, Plaintiff has taken into consideration all of the circumstances surrounding the Defendants' statements, the occasion on which they were made and the extent of the publications and republications, the nature and character of the insult, the probable effect on those who read and heard the

statements, and the probable and natural effect upon the Plaintiff's personal feelings and upon his standing in the community and in business.

4. Insurance Agreement. Plaintiff does not yet know if there is an insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment against Defendants or to indemnify or reimburse for payments made to satisfy such judgment.

Plaintiff reserves the right to amend and supplement his Rule 26(a)(1) Disclosures in accordance with the Rule 26 FRCP.

DATED: December 10, 2018

ED BUTOWSKY,
In his Individual and Professional Capacities

By: /s/ Steven S. Biss
Steven S. Biss (VSB # 32972)
300 West Main Street, Suite 102
Charlottesville, Virginia 22903
Telephone: (804) 501-8272
Facsimile: (202) 318-4098
Email: stevenbiss@earthlink.net
(Admitted Pro Hac Vice)

Ty Clevenger, Esquire
Texas Bar No. 24034380
P.O. Box 20753
Brooklyn, NY 11202-0753
(979) 985-5289
(979) 530-9523 (Fax)
Email: tyclevenger@yahoo.com

Counsel for the Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2018 a copy of the foregoing was filed electronically using the Court's CM/ECF system, which will send notice of electronic filing to counsel for Defendants and all interested parties receiving notices via CM/ECF, and a copy was also emailed in PDF to counsel for the Defendants:

Laura.Prather@haynesboone.com;

Thomas.Williams@haynesboone.com.

By: /s/ Steven S. Biss

Steven S. Biss (VSB # 32972)
300 West Main Street, Suite 102
Charlottesville, Virginia 22903
Telephone: (804) 501-8272
Facsimile: (202) 318-4098
Email: stevenbiss@earthlink.net
(Admitted Pro Hac Vice)

Ty Clevenger, Esquire
Texas Bar No. 24034380
P.O. Box 20753
Brooklyn, NY 11202-0753
(979) 985-5289
(979) 530-9523 (Fax)
Email: tyclevenger@yahoo.com

Counsel for the Plaintiff